

REMARKS

Claim 107 is currently pending in this application. Claims 1-106 have previously been cancelled.

By way of the present Amendment, claim 107 is amended and new claims 108-114 are added. No new matter has been added by way of these amendments as discussed elsewhere herein.

New Claims

Applicants have added claims 108-114, herein. Claim 108 is directed to a nucleic acid encoding a promoter/regulatory sequence operably linked to the nucleic acid of claim 107. Support for new claim 108 is found on page 44, lines 19 to 21; page 44, lines 23 to 31; and page 45, lines 1 to 21 of the specification. Claims 109 and 110 are directed to a vector comprising the nucleic acid of claim 107. Support for new claim 109 is found on page 45, lines 21 to 31; page 46 lines 4 to 9; and page 46 lines 14 to 18 of the specification. Support for new claim 110 is found on page 46, lines 4 to 9 of the specification. Claims 111, 112 and 114 are directed to recombinant cells. Support for new claims 111 and 112 is found on page 46, lines 10 to 13; page 47, lines 30 to 31; page 53 lines 2 to 31; page 54, lines 1 to 11, as well as throughout the specification. Support for new claim 114 is found on page 49, lines 18-20 of the specification. Claim 113 is directed to an antisense nucleic acid. Support for new claim 113 is found on page 51, lines 14 to 31, and page 52, lines 1 to 6 of the specification.

No new matter has been added by way of these amendments to the claims.

Amendment to the Claims

Claim 107 is amended herein to remove the redundant term "nucleic acid encodes a protein polypeptide." The claim now recites "nucleic acid encodes a polypeptide."

No new matter has been added by way of this amendment to the claims.

Rejection of claim 107 on the Grounds of Nonstatutory Obviousness-type Double Patenting

The Examiner has rejected claim 107 on the grounds of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,646,113 in view of Ucken et al. (U.S. Patent no. 6,160,010). Applicants herewith file a Terminal Disclaimer in

compliance with 37 C.F.R. § 1.321. Thus, the Applicants submit that this rejection has been rendered moot and request the reconsideration and withdrawal of the rejection.

Summary

Applicants respectfully submit that the rejection by the Examiner of the claims of the present application has been overcome or is now inapplicable, and that the claims are now in condition for allowance. Reconsideration and allowance of these claims is respectfully requested at the earliest possible date.

Respectfully submitted,

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October 30, 2007

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